

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

AUTUMN EVERETT, ON BEHALF OF)
HERSELF, AND ALL OTHERS SIMILARLY)
SITUATED,)
Plaintiff,)
v.) Civil Action No. _____
MEMPHIS LIGHT GAS AND WATER)
DIVISION,)
Defendant.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Memphis Light Gas and Water Division (“MLGW”) removes the action, Case No. CT-002868-16, from the Circuit Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee, Western Division. The removal of this action is based on the following:

1. On July 14, 2016, Plaintiff filed a Class Action Complaint in Shelby County Circuit Court against MLGW, alleging an action under the Fair and Accurate Credit Transactions Act, 15 U.S.C. §§ 1681, *et seq.*¹

2. Plaintiff served MLGW through its President and Chief Executive Officer, Mr. Jerry Collins, on September 12, 2016. Under 28 U.S.C. § 1446(b), this Notice of Removal must

¹ The arguments and law raised in this Notice of Removal are for the purposes of removal only. By the assertion or omission of any argument or reliance upon any law, MLGW does not intend to waive and specifically reserves its rights to assert any defenses and/or objections to which it may be entitled to assert through dispositive motion or otherwise.

be filed within 30 days of service of the Complaint upon MLGW. Thus, this Notice of Removal is timely filed. *See* 28 U.S.C. § 1446(b) and Fed. R. Civ. P. 6(a)(1)(C).

3. To date, no appearances have been filed in the Circuit Court on behalf of MLGW.

4. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders, including the Complaint, filed in the Circuit Court to date, are attached collectively as Exhibit A.

5. Venue is proper because any civil action for which a district court has original jurisdiction may be removed by the defendant to the district court for the district and division embracing the place where such action is pending. 28 U.S.C. § 1441(a).

6. Because MLGW has satisfied the procedural requirements for removal and this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, as will be discussed more fully below, this case is properly removed to this Court.

Federal Question Jurisdiction

7. Plaintiff seeks relief under the Fair and Accurate Credit Transactions Act, 15 U.S.C. §§ 1681, *et seq.*, in the Complaint. *See* Exhibit A.

8. The Court, therefore, has original subject matter jurisdiction over Plaintiff's claims by virtue of federal question jurisdiction under 28 U.S.C. § 1331 which states that “[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

9. Because this Court has subject matter jurisdiction over this action, removal is proper pursuant to 28 U.S.C. § 1441.

Procedural Requirements Satisfied

10. In compliance with 28 U.S.C. § 1446(d), a copy of the Notice of Filing Notice of Removal of Action that will be promptly filed with the Circuit Court of Shelby County, Tennessee is attached as Exhibit B.

11. In compliance with 28 U.S.C. § 1446(d), MLGW is serving Plaintiff with written notice of the removal of this action.

WHEREFORE, MLGW respectfully removes this action from the Circuit Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee, Western Division.

DATE: October 11, 2016.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

s/ David L. Bearman

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Attorneys for Defendant Memphis Light Gas and Water Division

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the forgoing Notice of Removal was served upon the following counsel of record via first class mail, postage prepaid, on October 11, 2016:

Brian Herrington
Herrington Law, PA
P.O. Box 3260
Ridgeland, MS 39158

Chant Yedalian
Chant & Company
1010 N. Central Ave.
Glendale, CA 91202

s/ David L. Bearman